

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:18-cv-02296-AJN**

Everytown for Gun Safety Support Fund v. Bureau of Alcohol,
Tobacco, Firearms, and Explosives
Assigned to: Judge Alison J. Nathan
Cause: 05:552 Freedom of Information Act

Date Filed: 03/15/2018
Date Terminated: 08/21/2019
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**Everytown for Gun Safety Support
Fund**

represented by **Eric Anders Tirschwell**
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V.

Defendant

**Bureau of Alcohol, Tobacco, Firearms,
and Explosives**

represented by **Tomoko Onozawa**
U.S. Attorney's Office, SDNY (Chambers)

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Date Filed	#	Docket Text
03/15/2018	<u>1</u>	COMPLAINT against Bureau of Alcohol, Tobacco, Firearms, and Explosives. (Filing Fee \$ 400.00, Receipt Number 0208-14815331) Document filed by Everytown for Gun Safety Support Fund. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(Lefkowitz, Alla) (Entered: 03/15/2018)
03/15/2018	<u>2</u>	CIVIL COVER SHEET filed. (Lefkowitz, Alla) (Entered: 03/15/2018)
03/15/2018	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Bureau of Alcohol, Tobacco, Firearms, and Explosives, re: <u>1</u> Complaint,. Document filed by Everytown for Gun Safety Support Fund. (Lefkowitz, Alla) (Entered: 03/15/2018)
03/15/2018	<u>4</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Everytown for Gun Safety Support Fund.(Lefkowitz, Alla) (Entered: 03/15/2018)
03/15/2018	<u>5</u>	NOTICE OF APPEARANCE by Eric Anders Tirschwell on behalf of Everytown for Gun Safety Support Fund. (Tirschwell, Eric) (Entered: 03/15/2018)
03/15/2018	<u>6</u>	NOTICE OF APPEARANCE by Lawrence S. Lustberg on behalf of Everytown for Gun Safety Support Fund. (Lustberg, Lawrence) (Entered: 03/15/2018)
03/16/2018		***NOTICE TO ATTORNEY REGARDING CIVIL CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney Alla Lefkowitz. The following case opening statistical information was erroneously selected/entered: Fee Status code due (due). The following correction has been made to your case entry: the Fee Status code has been modified to pd (paid). (pne) (Entered: 03/16/2018)
03/16/2018		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Alison J. Nathan. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (pne) (Entered: 03/16/2018)
03/16/2018		Magistrate Judge Robert W. Lehrburger is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (pne) (Entered: 03/16/2018)
03/16/2018		Case Designated ECF. (pne) (Entered: 03/16/2018)
03/16/2018	<u>7</u>	ELECTRONIC SUMMONS ISSUED as to Bureau of Alcohol, Tobacco, Firearms, and Explosives. (pne) (Entered: 03/16/2018)
03/19/2018	<u>8</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE: This case has been assigned to me for all purposes. It is hereby ORDERED that counsel for all parties appear for an initial pretrial conference with the Court on Friday, July 20th, 2018 at 3:00 pm in Courtroom 906 of the United States District Court for the Southern District of New York, Thurgood Marshall U.S. Courthouse at 40 Foley Square, New York, New York. Initial Conference set for 7/20/2018 at 3:00 PM in Courtroom 906, 40 Centre Street, New York, NY 10007 before Judge Alison J. Nathan. (Signed by Judge Alison J. Nathan on 3/19/2018) (js) (Entered: 03/19/2018)

04/04/2018	<u>9</u>	NOTICE OF APPEARANCE by Tomoko Onozawa on behalf of Bureau of Alcohol, Tobacco, Firearms, and Explosives. (Onozawa, Tomoko) (Entered: 04/04/2018)
04/20/2018	<u>10</u>	CERTIFICATE OF SERVICE. Bureau of Alcohol, Tobacco, Firearms, and Explosives served on 3/28/2018, answer due 4/18/2018. Service was made by Mail. Document filed by Everytown for Gun Safety Support Fund. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Lustberg, Lawrence) (Entered: 04/20/2018)
04/23/2018	<u>11</u>	ANSWER to <u>1</u> Complaint,. Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives.(Onozawa, Tomoko) (Entered: 04/23/2018)
06/21/2018	<u>12</u>	NOTICE OF APPEARANCE by Avram David Frey on behalf of Everytown for Gun Safety Support Fund. (Frey, Avram) (Entered: 06/21/2018)
07/12/2018	<u>13</u>	LETTER MOTION to Adjourn Conference <i>and Concerning Case Management Plan and Summary Judgment Briefing Schedule</i> addressed to Judge Alison J. Nathan from Lawrence S. Lustberg dated July 12, 2018. Document filed by Everytown for Gun Safety Support Fund. (Attachments: # <u>1</u> Exhibit)(Lustberg, Lawrence) (Entered: 07/12/2018)
07/13/2018	<u>14</u>	ORDER granting <u>13</u> Letter Motion to Adjourn Conference. The parties' joint request to be relieved of their obligation to submit a proposed Case Management Plan is GRANTED. The Court also SO ORDERS the parties' proposed briefing schedule for summary judgment practice. Accordingly, the initial pretrial conference previously scheduled for July 20, 2018 is hereby adjourned sine die. (Signed by Judge Alison J. Nathan on 7/13/2018) (cf) (Entered: 07/13/2018)
09/12/2018	<u>15</u>	LETTER MOTION for Extension of Time to File <i>Cross-Motions for Summary Judgment</i> addressed to Judge Alison J. Nathan from AUSA Tomoko Onozawa dated 9/12/2018. Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives.(Onozawa, Tomoko) (Entered: 09/12/2018)
09/13/2018	<u>16</u>	ORDER granting <u>15</u> Letter Motion for Extension of Time to File: SO ORDERED. (Signed by Judge Alison J. Nathan on 9/12/2018) (jwh) (Entered: 09/14/2018)
09/13/2018		Set/Reset Deadlines: Motions due by 9/28/2018. Cross Motions due by 11/2/2018. Responses due by 11/16/2018. Replies due by 11/30/2018. (jwh) (Entered: 09/14/2018)
09/28/2018	<u>17</u>	MOTION for Summary Judgment . Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives. Responses due by 11/2/2018(Onozawa, Tomoko) (Entered: 09/28/2018)
09/28/2018	<u>18</u>	MEMORANDUM OF LAW in Support re: <u>17</u> MOTION for Summary Judgment . . Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives. (Onozawa, Tomoko) (Entered: 09/28/2018)
09/28/2018	<u>19</u>	DECLARATION of Charles J. Houser in Support re: <u>17</u> MOTION for Summary Judgment .. Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Onozawa, Tomoko) (Entered: 09/28/2018)
09/28/2018	<u>20</u>	LETTER MOTION for Leave to File Signed Declaration of Charles J. Houser, previously filed as ECF No. 19 addressed to Judge Alison J. Nathan from AUSA Tomoko Onozawa dated 9/28/2018. Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives.(Onozawa, Tomoko) (Entered: 09/28/2018)
10/01/2018	<u>21</u>	DECLARATION of Charles J. Houser in Support re: <u>17</u> MOTION for Summary Judgment .. Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Onozawa, Tomoko) (Entered: 10/01/2018)
10/02/2018	<u>22</u>	ORDER granting <u>20</u> Letter Motion for Leave to File Document. The ATF may submit the declaration described below on October 1, 2018. This resolves Dkt. No. 20. (Signed by Judge Alison J. Nathan on 10/2/2018) (tro) (Entered: 10/02/2018)
11/02/2018	<u>23</u>	NOTICE OF APPEARANCE by James E. Miller on behalf of Everytown for Gun Safety Support Fund. (Miller, James) (Entered: 11/02/2018)

11/02/2018	<u>24</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – CROSS MOTION for Summary Judgment . Document filed by Everytown for Gun Safety Support Fund. Responses due by 11/16/2018 (Attachments: # <u>1</u> Brief in Support of Cross Motion for Summary Judgment and in Opposition to Defendant's Motion for Summary Judgment, # <u>2</u> Affidavit Attorney Alla Lefkowitz, # <u>3</u> Exhibit Exhibits A–H)(Lustberg, Lawrence) Modified on 12/18/2018 (ldi). (Entered: 11/02/2018)
11/02/2018	<u>25</u>	LETTER MOTION for Oral Argument <i>regarding Cross Motions for Summary Judgment</i> addressed to Judge Alison J. Nathan from Lawrence S. Lustberg, Esq. dated 11/2/2018. Document filed by Everytown for Gun Safety Support Fund.(Lustberg, Lawrence) (Entered: 11/02/2018)
11/16/2018	<u>26</u>	REPLY MEMORANDUM OF LAW in Support re: <u>17</u> MOTION for Summary Judgment . <i>and in Opposition to Plaintiff's Cross–Motion for Summary Judgment</i> . Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives. (Onozawa, Tomoko) (Entered: 11/16/2018)
11/16/2018	<u>27</u>	DECLARATION of Charles J. Houser (Supplemental Declaration) in Support re: <u>17</u> MOTION for Summary Judgment .. Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives. (Attachments: # <u>1</u> Exhibit D, # <u>2</u> Exhibit E)(Onozawa, Tomoko) (Entered: 11/16/2018)
11/30/2018	<u>28</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – REPLY MEMORANDUM OF LAW in Support re: <u>24</u> CROSS MOTION for Summary Judgment . . Document filed by Everytown for Gun Safety Support Fund. (Attachments: # <u>1</u> Affidavit Alla Lefkowitz, Esq., # <u>2</u> Exhibit Exhs. A–D)(Lustberg, Lawrence) Modified on 12/18/2018 (ldi). (Entered: 11/30/2018)
12/18/2018		***NOTICE TO ATTORNEY TO RE–FILE DOCUMENT – DEFICIENT DOCKET ENTRY ERROR. Notice to Attorney Lawrence S. Lustberg to RE–FILE Document <u>24</u> CROSS MOTION for Summary Judgment . ERROR(S): Supporting documents must be filed separately, each receiving their own document number. Declaration in Support of Motion and Memorandum of Law in Support of Motion are both found under the event list Replies, Opposition and Supporting Documents. (ldi) (Entered: 12/18/2018)
12/18/2018		***NOTICE TO ATTORNEY TO RE–FILE DOCUMENT – DEFICIENT DOCKET ENTRY ERROR. Notice to Attorney Lawrence S. Lustberg to RE–FILE Document <u>28</u> Reply Memorandum of Law in Support of Motion. ERROR(S): Supporting documents must be filed separately, each receiving their own document number. Declaration in Support of Motion is found under the event list Replies, Opposition and Supporting Documents. (ldi) (Entered: 12/18/2018)
12/18/2018	<u>29</u>	CROSS MOTION for Summary Judgment . Document filed by Everytown for Gun Safety Support Fund.(Lustberg, Lawrence) (Entered: 12/18/2018)
12/18/2018	<u>30</u>	MEMORANDUM OF LAW in Support re: <u>29</u> CROSS MOTION for Summary Judgment . . Document filed by Everytown for Gun Safety Support Fund. (Lustberg, Lawrence) (Entered: 12/18/2018)
12/18/2018	<u>31</u>	DECLARATION of Alla Lefkowitz, Esq. in Support re: <u>29</u> CROSS MOTION for Summary Judgment .. Document filed by Everytown for Gun Safety Support Fund. (Attachments: # <u>1</u> Exhibit A–H)(Lustberg, Lawrence) (Entered: 12/18/2018)
12/18/2018	<u>32</u>	REPLY MEMORANDUM OF LAW in Support re: <u>29</u> CROSS MOTION for Summary Judgment . . Document filed by Everytown for Gun Safety Support Fund. (Lustberg, Lawrence) (Entered: 12/18/2018)
12/18/2018	<u>33</u>	DECLARATION of Alla Lefkowitz, Esq. in Support re: <u>29</u> CROSS MOTION for Summary Judgment .. Document filed by Everytown for Gun Safety Support Fund. (Attachments: # <u>1</u> Exhibit A–D)(Lustberg, Lawrence) (Entered: 12/18/2018)
12/27/2018	<u>34</u>	STANDING ORDER M10–468: The United States Attorney's Office shall notify the Court immediately upon the restoration of Department of Justice funding. (As further set forth in this Order.) (Signed by Judge Colleen McMahon on 12/27/2018) (mro) (Entered: 01/02/2019)

12/27/2018		Case Stayed (mro) (Entered: 01/14/2019)
01/25/2019	<u>35</u>	NOTICE OF CHANGE OF ADDRESS by James E. Miller on behalf of Everytown for Gun Safety Support Fund. New Address: Everytown Law, 450 Lexington Ave, #4184, New York, NY, United States 10017,. (Miller, James) (Entered: 01/25/2019)
03/05/2019	<u>36</u>	LETTER addressed to Judge Alison J. Nathan from AUSA Tomoko Onozawa dated 3/5/2019 re: the parties' cross-motions for summary judgment. Document filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives.(Onozawa, Tomoko) (Entered: 03/05/2019)
08/06/2019	<u>37</u>	ORDER granting <u>25</u> Letter Motion for Oral Argument. The Court will hold oral argument on the cross-motions for summary judgment currently pending in the above-captioned matter on Monday, August 12, 2019 at 10 a.m. This resolves Dkt. No. 25. So Ordered. (Signed by Judge Alison J. Nathan on 8/6/2019) (js) Modified on 8/7/2019 (js). (Entered: 08/07/2019)
08/06/2019		Set/Reset Hearings: Oral Argument set for 8/12/2019 at 10:00 AM before Judge Alison J. Nathan. (js) (Entered: 08/07/2019)
08/12/2019		Minute Entry for proceedings held before Judge Alison J. Nathan. Oral Argument held. Decision reserved. See transcript for complete details. (Court Reporter Raquel Robles) (qs) (Entered: 08/12/2019)
08/19/2019	<u>38</u>	OPINION & ORDER re: <u>29</u> CROSS MOTION for Summary Judgment . filed by Everytown for Gun Safety Support Fund, <u>17</u> MOTION for Summary Judgment . filed by Bureau of Alcohol, Tobacco, Firearms, and Explosives. For the foregoing reasons, ATF's motion for summary judgment is DENIED, and Everytown's motion for summary judgment is GRANTED. The ATF is hereby ordered to produce the requested records. The Clerk of Court is respectfully requested to enter judgment and close this case. This resolves Dkt. Nos. 17 and 29. SO ORDERED. (Signed by Judge Alison J. Nathan on 8/19/2019) (kv) Transmission to Orders and Judgments Clerk for processing. (Entered: 08/19/2019)
08/21/2019	<u>39</u>	CLERK'S JUDGMENT re: <u>38</u> Memorandum & Opinion. in favor of Everytown for Gun Safety Support Fund against Bureau of Alcohol, Tobacco, Firearms, and Explosives. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Opinion and Order dated August 19, 2019, ATF's motion for summary judgment is denied, and Everytown's motion for summary judgment is granted; the ATF is hereby ordered to produce the requested records; accordingly, this case is closed. (Signed by Clerk of Court Ruby Krajick on 08/21/2019) (Attachments: # <u>1</u> Notice of Right to Appeal)(dt) (Entered: 08/21/2019)